

# EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

SEVEN NETWORKS, LLC,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

CIVIL ACTION No. 2:17-cv-442-JRG  
LEAD CASE

PATENT CASE

JURY TRIAL DEMANDED

**SEVEN's P.R. 3-1 & 3-2 DISCLOSURES TO GOOGLE**

In accordance with P.R. 3-1 and 3-2, Plaintiff SEVEN Networks, LLC (“SEVEN”) makes the following disclosures to Defendant Google Inc. (“Google”). These disclosures are based on information currently available to SEVEN.

**I. P.R. 3-1 DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS**

**A. Each claim of each patent in suit that is allegedly infringed by each opposing party.**

Google infringes at least the following claims under 35 U.S.C. § 271:

Patent	Asserted Claims
U.S. Patent No. 8,811,952 (“the ’952 patent”)	26–28, 30
U.S. Patent No. 9,247,019 (“the ’019 patent”)	1–3, 5, 11–12, 16, 19–20
U.S. Patent No. 9,325,600 (“the ’600 patent”)	7, 11–12
U.S. Patent No. 9,351,254 (“the ’254 patent”)	1–15, 28–33
U.S. Patent No. 9,516,127 (“the ’127 patent”)	10–22, 33, 35, 38, 41–42, 44–45, 48
U.S. Patent No. 9,516,129 (“the ’129 patent”)	1–11, 13–14, 17–27, 29–30, 34–35
U.S. Patent No. 9,553,816 (“the ’816 patent”)	9–16
U.S. Patent No. 8,078,158 (“the ’158 patent”)	10, 19–20
U.S. Patent No. 9,386,433 (“the ’433 patent”)	1–30
U.S. Patent No. 9,444,812 (“the ’812 patent”)	1–17

**B. Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality (“Accused Instrumentality”) of each opposing party of which the party is aware.**

The table below identifies the Accused Instrumentalities of which SEVEN is currently aware, that infringe one or more of the Asserted Claims.

Patent	Claims	Accused Products
’952	26–28, 30	Google mobile devices (such as mobile phones and

Patent	Claims	Accused Products
		<p>tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) any version of Android 5 (referred to herein as “Lollipop”) or (b) a previous version of Android upgraded to Lollipop (collectively, “<b>Google ’952 Lollipop Accused Products</b>”). See, for example, exemplary products identified in Schedule G-L.<sup>1</sup></p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) any version of Android 6 (referred to herein as “Marshmallow”) or (b) a previous version of Android upgraded to Marshmallow (collectively, “<b>Google ’952 Marshmallow Accused Products</b>”). See, for example, exemplary products identified in Schedule G-M.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) any version of Android 7 (referred to herein as “Nougat”) or (b) a previous version of Android upgraded to Nougat (“<b>Google ’952 Nougat Accused Products</b>”). See, for example, exemplary products identified in Schedule G-N.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) any version of Android 8 (referred to herein as “Oreo”) or (b) a previous version of Android upgraded to Oreo (“<b>Google ’952 Oreo Accused Products</b>”). See, for example, exemplary products identified in Schedule G-O.</p>
'019	1–3, 5, 11–12, 16, 19–20	<p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Marshmallow or (b) a previous version of Android upgraded to Marshmallow (collectively, “<b>Google ’019 Marshmallow Accused Products</b>”).</p>

<sup>1</sup> The naming convention of the schedules is as follows: “G-L” stands for “Google-Lollipop,” “G-M” stands for “Google-Marshmallow,” “G-N” stands for “Google-Nougat,” and “G-O” stands for “Google-Oreo.”

Patent	Claims	Accused Products
		<p>See, for example, exemplary products identified in Schedule G-M.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Nougat or (b) a previous version of Android upgraded to Nougat (“<b>Google ’019 Nougat Accused Products</b>”). See, for example, exemplary products identified in Schedule G-N.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Oreo or (b) a previous version of Android upgraded to Oreo (“<b>Google ’019 Oreo Accused Products</b>”). See, for example, exemplary products identified in Schedule G-O.</p>
'600	7, 11–12	<p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Marshmallow or (b) a previous version of Android upgraded to Marshmallow (collectively, “<b>Google ’600 Marshmallow Accused Products</b>”). See, for example, exemplary products identified in Schedule G-M.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Nougat or (b) a previous version of Android upgraded to Nougat (“<b>Google ’600 Nougat Accused Products</b>”). See, for example, exemplary products identified in Schedule G-N.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Oreo or (b) a previous version of Android upgraded to Oreo (“<b>Google ’600 Oreo Accused Products</b>”). See, for example, exemplary products identified in Schedule G-O.</p>
'254	1–15, 28–33	<p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States,</p>

Patent	Claims	Accused Products
		<p>with: (a) Marshmallow or (b) a previous version of Android upgraded to Marshmallow (collectively, <b>“Google ’254 Marshmallow Accused Products”</b>). See, for example, exemplary products identified in Schedule G-M.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Nougat or (b) a previous version of Android upgraded to Nougat (<b>“Google ’254 Nougat Accused Products”</b>). See, for example, exemplary products identified in Schedule G-N.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Oreo or (b) a previous version of Android upgraded to Oreo (<b>“Google ’254 Oreo Accused Products”</b>). See, for example, exemplary products identified in Schedule G-O.</p>
'127	10–22, 33, 35, 38, 41–42, 44–45, 48	<p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Marshmallow or (b) a previous version of Android upgraded to Marshmallow (collectively, <b>“Google ’127 Marshmallow Accused Products”</b>). See, for example, exemplary products identified in Schedule G-M.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Nougat or (b) a previous version of Android upgraded to Nougat (<b>“Google ’127 Nougat Accused Products”</b>). See, for example, exemplary products identified in Schedule G-N.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Oreo or (b) a previous version of Android upgraded to Oreo (<b>“Google ’127 Oreo Accused Products”</b>). See, for example, exemplary products identified in Schedule G-O.</p>

Patent	Claims	Accused Products
'129	1–11, 13–14, 17–27, 29–30, 34–35	<p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Marshmallow or (b) a previous version of Android upgraded to Marshmallow (collectively, <b>“Google ’129 Marshmallow Accused Products”</b>). See, for example, exemplary products identified in Schedule G-M.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Nougat or (b) a previous version of Android upgraded to Nougat (<b>“Google ’129 Nougat Accused Products”</b>). See, for example, exemplary products identified in Schedule G-N.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Oreo or (b) a previous version of Android upgraded to Oreo (<b>“Google ’129 Oreo Accused Products”</b>). See, for example, exemplary products identified in Schedule G-O.</p>
'816	9–16	<p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Marshmallow or (b) a previous version of Android upgraded to Marshmallow (collectively, <b>“Google ’816 Marshmallow Accused Products”</b>). See, for example, exemplary products identified in Schedule G-M.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Nougat or (b) a previous version of Android upgraded to Nougat (<b>“Google ’816 Nougat Accused Products”</b>). See, for example, exemplary products identified in Schedule G-N.</p> <p>Google mobile devices (such as mobile phones and tablets) made, used, sold, or offered for sale in the United States, or imported into the United States, with: (a) Oreo or (b) a previous version of Android</p>

Patent	Claims	Accused Products
		upgraded to Oreo (“ <b>Google ’816 Oreo Accused Products</b> ”). See, for example, exemplary products identified in Schedule G-O.
’158	10, 19–20	All versions of the Google Play Store (including previous versions branded under another name, such as Android Market) and its associated hardware and software (collectively, “Google Play Store”), made or used in the United States, along with all Google Play Store transactions relating to application downloads, since December 13, 2011 (“ <b>Google ’158 Accused Products</b> ”).
’433	1–30	All versions of the Google Play Store, including the Google Play Store servers, made or used in the United States, along with all Google Play Store transactions relating to application downloads and digital content, including transactions conducted through Google Play Movies & TV, Google Play Music, Google Play Games, Google Play Books, and Google Play Newsstand, since July 5, 2016 (“ <b>Google ’433 Accused Products</b> ”).
’812	1–17	All versions of Google’s 2-Step Verification, along with associated hardware and software, made or used on or after September 13, 2016 (“ <b>Google ’812 Accused Products</b> ”).

**C. A chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function.**

The exhibits and schedules referenced in the table below provide charts that identify specifically where each element of each asserted claim is found within the Accused Instrumentalities.

Patent	Exhibits	Schedules
’952	Exhibit A[lollipop],	Schedules G-L, G-M, G-N, and G-O



Patent	Exhibits	Schedules
	Exhibit A[marshmallow], Exhibit A[nougat], and Exhibit A[oreo]	
'019	Exhibit B[marshmallow], Exhibit B[nougat], and Exhibit B[oreo]	Schedules G-M, G-N, and G-O
'600	Exhibit C[marshmallow], Exhibit C[nougat], and Exhibit C[oreo]	Schedules G-M, G-N, and G-O
'254	Exhibit D[marshmallow], Exhibit D[nougat], and Exhibit D[oreo]	Schedules G-M, G-N, and G-O
'127	Exhibit E[marshmallow], Exhibit E[nougat], and Exhibit E[oreo]	Schedules G-M, G-N, and G-O
'129	Exhibit F[marshmallow], Exhibit F[nougat], and Exhibit F[oreo]	Schedules G-M, G-N, and G-O
'816	Exhibit G[marshmallow], Exhibit G[nougat], and Exhibit G[oreo]	Schedules G-M, G-N, and G-O
'158	Exhibit H	N/A
'433	Exhibit I	N/A
'812	Exhibit J	N/A

**D. Whether each element of each asserted claim is claimed to be literally present or present under the doctrine of equivalents in the Accused Instrumentality.**

At this time, SEVEN contends that each element of each asserted claim is literally present in the Accused Instrumentalities as set forth in Exhibits A–J. To the extent any element of an Asserted Claim is not found to be literally present, SEVEN contends such element is present in an equivalent structure or step that performs substantially the same function, in substantially the same way, to achieve substantially the same result, as further set forth in the exhibits.

**E. For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled.**

The following patents claim priority to earlier applications and are entitled to a priority date as set forth below.

Patent	Priority Date
'952	<p>The Asserted Claims of the '952 patent are entitled to a priority date of August 12, 2002.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '952 patent is not entitled to such a priority date, said Asserted Claim is entitled to a priority date of January 8, 2003.</p>
'019	<p>The Asserted Claims of the '019 patent are entitled to a priority date of July 26, 2010.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '019 patent is not entitled to a July 26, 2010 priority date, said Asserted Claim is entitled to a priority date of November 1, 2010.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '019 patent is not entitled to a November 1, 2010 priority date, said Asserted Claim is entitled to a priority date of November 22, 2010.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '019 patent is not entitled to a November 22, 2010 priority date, said Asserted Claim is entitled to a priority date of January 7, 2011.</p>

Patent	Priority Date
	Alternatively, to the extent it is determined that any Asserted Claim of the '019 patent is not entitled to a January 7, 2011 priority date, said Asserted Claim is entitled to a priority date of July 22, 2011.
'600	<p>The Asserted Claims of the '600 patent are entitled to a priority date of June 11, 2013.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '600 patent is not entitled to a June 11, 2013 priority date, said Asserted Claim is entitled to a priority date of June 11, 2014.</p>
'254	The Asserted Claims of the '254 patent are entitled to a priority date of January 22, 2014.
'127	The Asserted Claims of the '127 patent are entitled to a priority date of March 25, 2013.
'129	<p>The Asserted Claims of the '129 patent are entitled to a priority date of July 26, 2010.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '129 patent is not entitled to such a priority date, said Asserted Claim is entitled to a priority date of November 1, 2010.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '129 patent is not entitled to a November 1, 2010 priority date, said Asserted Claim is entitled to a priority date of November 22, 2010.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '129 patent is not entitled to a November 22, 2010 priority date, said Asserted Claim is entitled to a priority date of January 7, 2011.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '129 patent is not entitled to a January 7, 2011 priority date, said Asserted Claim is entitled to a priority date of July 22, 2011.</p>
'816	<p>The Asserted Claims of the '816 patent are entitled to a priority date of November 1, 2010.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '816 patent is not entitled to a November 1, 2010 priority date, said Asserted Claim is entitled to a priority date of November 22, 2010.</p>

Patent	Priority Date
	<p>Alternatively, to the extent it is determined that any Asserted Claim of the '816 patent is not entitled to a November 22, 2010 priority date, said Asserted Claim is entitled to a priority date of January 7, 2011.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '816 patent is not entitled to a January 7, 2011 priority date, said Asserted Claim is entitled to a priority date of May 25, 2011.</p>
'158	<p>The Asserted Claims of the '158 patent are entitled to a priority date of June 26, 2008.</p>
'433	<p>The Asserted Claims of the '433 patent are entitled to a priority date of January 11, 2008.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '433 patent is not entitled to a January 11, 2008 priority date, said Asserted Claim is entitled to a priority date of August 11, 2011.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '433 patent is not entitled to an August 11, 2011 priority date, said Asserted Claim is entitled to a priority date of March 22, 2012.</p>
'812	<p>The Asserted Claims of the '812 patent are entitled to a priority date of April 21, 2005.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '812 patent is not entitled to an April 21, 2005 priority date, said Asserted Claim is entitled to a priority date of September 21, 2006.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '812 patent is not entitled to a September 21, 2006 priority date, said Asserted Claim is entitled to a priority date of December 18, 2006.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '812 patent is not entitled to a December 18, 2006 priority date, said Asserted Claim is entitled to a priority date of September 13, 2012.</p> <p>Alternatively, to the extent it is determined that any Asserted Claim of the '812 patent is not entitled to a September 13, 2012 priority date, said Asserted Claim is entitled to a priority date of September 16, 2014.</p>

- F. If a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party must identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim.**

SEVEN reserves the right to rely on at least its Open Channel and AdClear products, which practice one or more of the inventions claimed by the patents-in-suit. With respect to the Asserted Claims, Open Channel practices claims 7 and 11 of the '600 patent. With respect to AdClear, mobile devices with AdClear are capable of practicing claim 26 of the '952 patent. In addition, AdClear practices at least claims 16, 23, 25, and 29 of the '433 patent. Further, SEVEN's products practice certain claims from the patents-in-suit that are not currently being asserted. SEVEN's development of its products is ongoing.

## **II. P.R. 3-2 DOCUMENT PRODUCTION ACCOMPANYING DISCLOSURE**

- A. Documents (e.g., contracts, purchase orders, invoices, advertisements, marketing materials, offer letters, beta site testing agreements, and third party or joint development agreements) sufficient to evidence each discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, the claimed invention prior to the date of application for the patent in suit. A party's production of a document as required herein shall not constitute an admission that such document evidences or is prior art under 35 U.S.C. § 102.**

SEVEN identifies documents labelled SEVENLIT0024258 through SEVENLIT0025532.

- B. All documents evidencing the conception, reduction to practice, design, and development of each claimed invention, which were created on or before the date of application for the patent in suit or the priority date identified pursuant to P. R. 3-1(e), whichever is earlier.**

SEVEN identifies documents labelled SEVENLIT0000087 through SEVENLIT0024257, and SEVENLIT-cv442\_0000001 through SEVENLIT-cv442\_0002056. Additionally, SEVEN notes that certain documents evidencing the conception of the claimed inventions are privileged and will be identified on SEVEN's privilege log.

**C. A copy of the file history for each patent in suit.**

Copies of the file histories for each of the patents-in-suit are provided at SEVENLIT0000087 through SEVENLIT0024191 and SEVENLIT-cv442\_0000001 through SEVENLIT-cv442\_0002056.

Dated: September 6, 2017

Respectfully submitted,

*/s/ Max Ciccarelli*

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**Bruce S. Sostek**

State Bar No. 18855700

Bruce.Sostek@tklaw.com

**Max Ciccarelli**

State Bar No. 00787242

Max.Ciccarelli@tklaw.com

**Herbert J. Hammond**

State Bar No. 08858500

Herbert.Hammond@tklaw.com

**Richard L. Wynne, Jr.**

State Bar No. 24003214

Richard.Wynne@tklaw.com

**Adrienne E. Dominguez**

State Bar No. 00793630

Adrienne.Dominguez@tklaw.com

**Vishal Patel**

State Bar No. 24065885

Vishal.Patel@tklaw.com

**Nadia E. Haghighatian**

State Bar No. 24087652

Nadia.Haghighatian@tklaw.com

**Austin Teng**

State Bar No. 24093247

Austin.Teng@tklaw.com

**Matthew Cornelia**

State Bar No. 24097534

Matt.Cornelia@tklaw.com

**THOMPSON & KNIGHT LLP**

One Arts Plaza

1722 Routh St., Suite 1500

Dallas, Texas 75201

214.969.1700

214.969.1751 (Fax)

**ATTORNEYS FOR PLAINTIFF**

**SEVEN NETWORKS, LLC.**

**Samuel F. Baxter**

Texas State Bar No. 01938000

sbaxter@mckoolsmith.com

**McKool Smith, P.C.**

104 E. Houston Street, Suite 300

Marshall, Texas 75670

Telephone: (903) 923-9000

Facsimile: (903) 923-9099

**Theodore Stevenson, III**

Texas State Bar No. 19196650

tstevenson@mckoolsmith.com

**Eric S. Hansen**

Texas State Bar No. 24062763

ehansen@mckoolsmith.com

**McKool Smith, P.C.**

300 Crescent Court, Suite 1500

Dallas, Texas 75201

Telephone: (214) 978-4000

Telecopier: (214) 978-4044

**ATTORNEYS FOR PLAINTIFF**

**SEVEN NETWORKS, LLC.**

**CERTIFICATE OF SERVICE**

I certify that on September 6, 2017, I caused a true and correct copy of the foregoing, along with all exhibits and attachments, to be served via email on all counsel of record.

/s/ Max Ciccarelli

Max Ciccarelli